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HUMAN RIGHTS QUESTIONS

Extract from the report of the Committee on Economic, Social and Cultural Rights on its eighth session, held from 10 to 28 May 1993

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DRAFT DECISIONS RECOMMENDED FOR ADOPTION BY THE ECONOMIC AND SOCIAL COUNCIL

DRAFT DECISION I

Extraordinary additional session for the Committee on Economic, Social and Cultural Rights

The Economic and Social Council, noting the backlog of States parties' reports awaiting consideration by the Committee on Economic, Social and Cultural Rights, and being aware that such a situation seriously undermines the effectiveness and threatens the credibility of the system for monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights, authorizes, on an exceptional basis, the holding of an extraordinary additional session, of three weeks duration, of the Committee in the first half of 1994. Additionally, the Council authorizes a special three-day meeting of the Committee's pre-sessional working group, to be held immediately following the conclusion of the Committee's ninth session, in order to prepare for the consideration of States parties' reports during the extraordinary additional session of the Committee.

DRAFT DECISION II

Payment of honoraria to members of the Committee on Economic, Social and Cultural Rights

The Economic and Social Council, noting that recent measures approved by the General Assembly will result in a situation in which the members of five out of the six United Nations treaty bodies composed of independent experts are entitled to receive an honorarium for their services, and recognizing that it is inequitable for a single committee to be treated differently in this respect, decides to authorize payment to each member of the Committee on Economic, Social and Cultural Rights of an honorarium equivalent to that payable to the members of other relevant treaty bodies.

DRAFT DECISION III

Resources to enable the Committee on Economic, Social and Cultural Rights to involve experts in its general discussion

The Economic and Social Council, noting the importance of the day of general discussion organized by the Committee on Economic, Social and Cultural Rights at each of its sessions, the purposes of which include developing a deeper appreciation of the standards contained in the Covenant, consulting experts in the field, involving the general public, and providing the foundations for the drafting of general comments, approves the allocation of a sum of $10,000 to enable the Committee at each of its sessions to cover the travel and accommodation costs of experts who would otherwise be unable to contribute to the general discussion.

REVIEW OF WORKING METHODS: DECISIONS ADOPTED BY THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AT ITS EIGHTH SESSION

Adoption of concluding observations

1. The Committee agreed that its concluding observations on each specific country report would be drafted by a designated country rapporteur, on the basis of drafting assistance provided by the Secretariat. It also agreed that its discussion of the draft should be considered and adopted in closed session. On a grammatical matter, the Committee decided that its concluding observations should be drafted in the present tense.

Additional session in 1994

2. The Committee agreed to request the Economic and Social Council to approve the scheduling of an additional session of the Committee to be held in May 1994 in order to enable the Committee to deal with the backlog of reports and other matters awaiting its consideration, as well as a three-day meeting of a working group to be held in December 1993 immediately after the conclusion of the Committee's ninth session, in order to prepare for the consideration of States parties' reports during the Committee's additional session in 1994. For this purpose a draft decision, for adoption by the Economic and Social Council, was prepared. The Committee requested that each of its draft decisions be reproduced in a separate document to be issued as rapidly as possible and brought to the attention of the Council at its session in July 1993.

Day of general discussion at ninth session

3. The Committee reaffirmed that the day of general discussion on an issue of particular importance to the implementation of the Covenant has been successful in serving the range of purposes for which it is intended. It was noted, however, that the inability to invite the participation of any experts who could not afford to pay for their own expenses greatly reduced the Committee's possibility to draw upon the expertise that would most help it to accomplish its objectives effectively. It therefore decided to recommend to the Economic and Social Council that the sum of $10,000 be made available to the Committee at each session to enable it to pay the travel and accommodation of experts who are invited by the Committee to contribute to its day of general discussion. A draft decision for adoption by the Economic and Social Council was adopted by the Committee for this purpose.

4. The Committee decided that, at its ninth session, the day of general discussion would be held on Monday, 6 December. It would focus on the right to health with particular emphasis, in that context, on the implications of the principle of non-discrimination and of the concept that there is a minimum core content of each right which constitutes a "floor" below which the conditions should not be permitted to fall in any State party.

5. It was also agreed that the pre-sessional working group, to be held from 28 June to 2 July 1993, would be responsible for drawing up a list of the principal issues that could be addressed during the general discussion and for identifying and inviting participants who could best contribute to the Committee's discussion.

Amendment to the Rules of Procedure

6. The Committee decided to amend its Rules of Procedure to replace the word "Chairman" wherever it occurs with the gender-neutral word "Chairperson". The latter designation will henceforth be used in the relevant parts of the Committee's annual reports.

Amended procedure in the event of the inability of a State party to present its report as scheduled

7. The Committee held several discussions of the problems caused by its receipt of last-minute notifications by States parties which had been scheduled to present their reports that they would not be able to do so until a future session. It was noted that this matter had caused the Committee considerable difficulties in the past and had led it to adopt decisions at its fifth and seventh sessions in the hope of discouraging such practices. It noted with considerable regret, however, that these measures had not proven to be effective. In particular, it was confronted at its eighth session by a situation in which all of the States scheduled to present reports during the first week of the session had sought a deferral on the basis of extremely short notice. In total, five States parties had indicated at the last moment that they would not be able to proceed, as scheduled, with the presentation of their reports to the Committee at its eighth session.

8. Among the consequences of this situation were that the Committee had to suspend its session for three days because it had not received adequate notice that would have enabled it to make use of the time available in some other way. In addition, the lists of questions prepared by the Committee's working group will need to be revised and updated to take account of changing circumstances, member's preparation for the reports of the country in question was partly in vain, the secretariat and conference services provided to the Committee were significantly underutilized, other reports awaiting the Committee's consideration at its next session were further delayed until the following session, and efforts by domestic and international non-governmental organizations as well as by the press and any other interested groups to follow the discussion of the reports in question were completely frustrated.

9. In order to avoid such disruption of its ability to function smoothly and effectively in the future, the Committee decided to amend its Rules of Procedure to provide that:

> Once a State party has agreed to the scheduling of its report for consideration by the Committee, the Committee will proceed with the examination of that report at the time scheduled, even in the absence of a representative of the State party.

10. For this purpose it was agreed that, once the Committee has taken a decision on the scheduling of a particular report, the Secretariat shall notify the State party concerned that, in the absence of advice to the contrary received within six weeks of the date on which the communication is sent, it will be assumed that the State party agrees to the presentation of the report at the time scheduled.

Honoraria for Committee members

11. The Committee noted that members of the Human Rights Committee had, since 1981, received an annual honorarium of $3,000 and that the members of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child also receive the same honoraria. Moreover, since the General Assembly has recently approved the payment of such honoraria to the members of the Committee against Torture and the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights will soon be the only treaty body whose members do not receive such honoraria. In view of the significant and increasing workload involved in membership of the Committee on Economic, Social and Cultural Rights, and of the need for equitable treatment, the Committee decided to request the Economic and Social Council to authorize the payment of an honorarium for each member of the Committee at the same level as that received by the members of the other treaty bodies.

General comments

12. Two draft general comments were submitted to the Committee for its consideration during its eighth session. Because of lack of time to consider them the Committee agreed to begin discussion of the drafts at its ninth session. The drafts deal with: equality and non-discrimination (articles 2 (2) and 3 of the Covenant); and persons with disabilities.

Re-scheduling of session

13. The Committee agreed unanimously to request the Committee on Conferences to re-schedule the annual session of the Committee on Economic, Social and Cultural Rights from its current time of November-December to the month of May each year. The Committee noted that the present timing was extremely inconvenient for many members, that very few observers were able to be present at that time, and that the change in the Council's own schedule made it possible for the Committee to be re-scheduled. The Committee therefore requests in the strongest possible terms that everything be done in order to ensure that its session can be re-scheduled as proposed, and that appropriate arrangements be made in relation to the scheduling of the pre-sessional working group.

Secretariat servicing

14. The Committee discussed on a number of occasions at its eighth session its need to receive very significantly greater assistance of a substantive nature from the secretariat. In particular, the Committee is unable to function in a truly effective manner, or to do justice to the efforts made by States parties, in the absence of a careful analysis of all available sources of information relating to the situation in the reporting State. The Committee therefore requests that a detailed analysis be prepared by the Secretariat for each country and that the analysis be available to the pre-sessional working group.

15. In the medium term it is clear that the relevant part of the secretariat needs not only to be strengthened but also restructured in order to ensure that competent researchers are available to assist the Committee members in their endeavours. Given that other treaty bodies have expressed similar needs, it would seem appropriate for the secretariat to begin consideration of a

restructuring which, in time, would permit very significant economies of scale as well as careful coordination of the work undertaken for each committee. The Committee also recommends that the Centre for Human Rights explore the possibility of linking up in some appropriate way with the UNHCR Centre for Documentation on Refugees. In addition, the Committee noted with great satisfaction the efforts being made by the Assistant Secretary-General for Human Rights to establish a Documentation Unit within the Centre.

NGO participation in the activities of the Committee

16. The Committee adopted the following procedure in relation to this matter:

"A. Written information

1. The Committee reiterates its long-standing invitation to NGOs to submit to it in writing, at any time, information regarding any aspect of its work.

B. Oral information

2. In addition to the receipt of written information, a short period of time will be made available at the beginning of each session of the pre-sessional working group to provide NGOs with an opportunity to submit relevant oral information to the members of the working group.

3. Furthermore, the Committee will set aside part of the first afternoon at each of its sessions to enable it to receive oral information provided by NGOs. Such information should: (a) focus specifically on the provisions of the Covenant on Economic, Social and Cultural Rights; (b) be of direct relevance to matters under consideration by the Committee; (c) be reliable, and (d) not be abusive. The relevant meeting will be open and will be provided with interpretation services, but will not be covered by summary records. The purposes are: to enable the Committee to inform itself as fully as possible; to probe the accuracy and pertinence of information which would most probably be available to it anyway; and to put the process of receiving NGO information on a more transparent and open basis than is permitted by the current approach.

4. NGOs wishing to present oral information should inform the Committee in advance. In cases in which the Committee receives more expressions of interest than can be dealt with in the limited time available, the Chairperson of the Committee, in consultation with the Bureau, shall determine on an objective basis which NGOs will be invited to make an oral presentation.

5. To the extent that information provided to the Committee in writing under these procedures is referred to by any member of the Committee in questions posed to the State party, the relevant information should be available for consultation by the Government concerned and all other interested parties.

6. The Committee requests its Chairperson, in conjunction with the secretariat, to make these procedures as widely known as possible."

The Committee agreed that this procedure would be reflected accordingly and in those terms in its Rules of Procedure.

Annual report

17. The Committee decided that it would no longer require the preparation of summaries of the consideration of country reports to be prepared for inclusion in its annual report. It agreed to consider at its next session alternative ways of ensuring that the relevant summary records and other documentation pertaining to the consideration of States parties reports be made widely and readily available to all interested parties, particularly in the country concerned.

18. The Committee requested that the concluding observations relating to each State party should be issued in a separate document to be available at the earliest possible moment after its adoption by the Committee. The concluding observations should be forwarded to the State party concerned immediately upon adoption.

Review of implementation in non-reporting States

19. The Committee decided to consider at its tenth session the situation in relation to four States parties which have not submitted an initial report since becoming a party to the Covenant, in each case before 1980: Mali, Mauritius, Guinea and Gambia.

World Summit for Social Development

20. The Committee took note of the decision of the General Assembly in its resolution 47/92, to convene a World Summit for Social Development in Copenhagen in 1995. The Committee welcomed this initiative very warmly and expressed the hope that full account would be taken, throughout the process of preparing for the Summit, of the fundamental importance of the provisions contained in the Covenant on Economic, Social and Cultural Rights. The Committee expressed the hope that it would be invited to send a representative to participate not only at the Summit itself, but also in the preparatory meetings leading up to the Summit.

21. The Committee noted with deep appreciation the endeavours of Mrs. Jimenez Butragueño in relation to the day of general discussion on the rights of the ageing and elderly in relation to the rights recognized in the Covenant on Economic, Social and Cultural Rights. The Committee agreed that it would welcome the submission of a draft general comment on this issue by Mrs. Jimenez and that it would also welcome her further suggestions relating to issues that should be addressed by the Committee in its future examination of States parties' reports.